

**South Carolina General Assembly**  
117th Session, 2007-2008

**A262, R299, S311**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Grooms

Introduced in the Senate on January 23, 2007

Introduced in the House on April 1, 2008

Last Amended on May 21, 2008

Passed by the General Assembly on May 28, 2008

Governor's Action: June 4, 2008, Signed

Summary: Childcare homes

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 20-7-2723 SO AS TO REQUIRE ALL CHILDCARE CENTERS, GROUP CHILDCARE HOMES, AND FAMILY CHILDCARE HOMES THAT DO NOT CARRY LIABILITY INSURANCE, OR WHOSE LIABILITY INSURANCE LAPSES OR IS CANCELED AND NOT REPLACED, TO OBTAIN STATEMENTS FROM THE PARENT OR GUARDIAN OF A CHILD ENROLLED IN THE CHILDCARE FACILITY INDICATING THAT THE PARENT OR GUARDIAN HAS RECEIVED NOTICE FROM THE FACILITY THAT THE FACILITY DOES NOT CARRY LIABILITY INSURANCE OR THAT THE INSURANCE LAPSED OR WAS CANCELED, TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO INFORM EACH CHILDCARE CENTER, GROUP CHILDCARE HOME, AND FAMILY CHILDCARE HOME OF THIS REQUIREMENT, AND TO PROVIDE THAT COMPLIANCE WITH THIS SECTION IS A CONDITION OF LICENSURE; TO AMEND SECTION 20-7-2725, AS AMENDED, RELATING TO THE REQUIREMENT THAT CHILDCARE CENTER EMPLOYEES UNDERGO CRIMINAL BACKGROUND CHECKS AND THAT PERSONS WHO HAVE BEEN CONVICTED OF CERTAIN OFFENSES ARE PROHIBITED FROM BEING EMPLOYED BY A CHILDCARE CENTER, SO AS TO ALSO REQUIRE A CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT CHECK TO BE CONDUCTED ON THE PERSON SEEKING CHILDCARE CENTER EMPLOYMENT, TO PROVIDE ADDITIONAL PROVISIONAL EMPLOYMENT REQUIREMENTS RELATIVE TO THE CENTRAL REGISTRY CHECKS, TO ESTABLISH CRIMINAL PENALTIES WHEN A DIRECTOR OF A CHILDCARE FACILITY VIOLATES THE PROVISIONAL EMPLOYMENT REQUIREMENTS, AND TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO COMPLETE A CENTRAL REGISTRY CHECK WITHIN TWO DAYS OF RECEIVING THE REQUEST; AND BY ADDING SECTION 20-7-2727 SO AS TO REQUIRE THE OWNER OR OPERATOR OF A CHILDCARE CENTER, GROUP CHILDCARE HOME, OR FAMILY CHILDCARE HOME TO NOTIFY AND OBTAIN STATEMENTS FROM THE PARENT OR GUARDIAN OF A CHILD ENROLLED IN THE CHILDCARE FACILITY THAT THE FACILITY MAY PROVISIONALLY EMPLOY A PERSON WHEN AN UNEXPECTED VACANCY OCCURS.**

Be it enacted by the General Assembly of the State of South Carolina:

**Absence of childcare center liability insurance to be reported to parents**

SECTION 1. Chapter 7, Title 20 of the 1976 Code is amended by adding:

“Section 20-7-2723. (A) An owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 20-7-2700, who does not carry liability insurance for the operation of his childcare business, shall, by no later than January 1, 2009, obtain signed statements from the custodial parent or parents or guardian or guardians of each child currently enrolled in the childcare center, group childcare home, or family childcare home indicating that the parent or parents or guardian or guardians have received notice that the childcare center, group childcare home, or family childcare home does not carry liability insurance for the operation of its childcare business. The owner or operator of a childcare center, group childcare home, or family childcare home must maintain a file of these signed statements at the home during the period of time a child is enrolled. For new enrollees to a childcare center, group childcare home, or family childcare home, the owner or operator must provide the parent or parents or guardian or guardians of a new enrollee with this information at the time of enrollment, obtain a signed statement from each parent or guardian at the time of enrollment, and maintain these signed statements at the home during the period of time a child is enrolled.

(B) If an owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 20-7-2700, has liability insurance for the operation of his childcare business that lapses or is canceled and not reinstated or replaced, the owner or operator shall obtain and maintain statements in accordance with subsection (A) from the custodial parent or parents or guardian or guardians of each child enrolled in the childcare center, group childcare home, or family childcare home no later than thirty days after the liability insurance lapses or is canceled.

(C) The department shall send a letter to each childcare center, group childcare home, and family childcare home licensed or registered as of June 30, 2008, with the department informing each home of the requirements of subsections (A) and (B), that each home must comply with these requirements by no later than January 1, 2009, and that compliance is a requirement for initial licensure and a continuing annual requirement for relicensure. For childcare centers, group childcare homes, and family childcare homes licensed or registered after June 30, 2008, the department shall provide the information contained in subsections (A) and (B) at the time the childcare center, group childcare home, or family childcare home applies for a license or registration.”

**Childcare employee background checks; Central Registry checks; provisional employment**

SECTION 2. Section 20-7-2725(D) of the 1976 Code, as amended by Act 2 of 2003, is further amended to read:

“(D)(1) To be employed by or to provide caregiver services at a childcare facility licensed, registered, or approved under this subarticle, a person first shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division (SLED) to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, and a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child.

(2) However, a person may be provisionally employed or may provisionally provide caregiver services after the favorable completion of the State Law Enforcement Division name and date of birth-based background check until such time as the SLED and Federal Bureau of Investigation fingerprint-based background checks, and the Central Registry check are completed if the person executes a sworn statement on a form provided by the department that he or she has not been convicted of any crime enumerated in this section and that he or she is not on the Central Registry for having perpetrated abuse or neglect upon a child. A person provisionally employed must be directly supervised by a nonprovisionally employed person at all times when providing direct care to children.

(3) Provisional status will be repealed if the requests for the Central Registry check and SLED and FBI fingerprint-based background checks are not sent by facsimile, mail, or another manner approved by the department by the end of the next business day after the person was employed.

(4) If the director of a childcare facility violates the terms of provisional employment, for a first offense, the facility may not employ a person provisionally for twelve months. For a second or subsequent offense, the facility may not employ a person provisionally for twenty-four months. The penalty shall apply to any facility that may employ the director of the facility during the period of suspension. A childcare facility owner with five or more facilities that sustains violations in twenty-five percent or more of facilities owned in the State during a period of two years may not employ a person provisionally in any facility for twenty-four months. The department shall have authority to determine that a violation has occurred and shall notify the owner and the director in writing of the violation and the penalty. The owner or director under penalty may appeal this determination through the process provided in this subarticle for appeal of the revocation or denial of a childcare license. Authority to employ persons in provisional status must remain suspended while the appeal is pending. Upon disposition of the appeal in favor of the appellant, authority to use provisional status must be restored.

(5) The results of the fingerprint-based background checks are valid and reviews are not required to be repeated as long as the person remains employed by or continues providing caregiver services in a childcare center, group childcare home, family childcare home, or church or religious childcare center; however, if a person is not employed or does not provide caregiver services for one year or longer, the fingerprint reviews must be repeated.

(6) For provisional employment under this section, the department must complete the Central Registry check within two business days of receipt of the request. For other employment under this section, the department must complete the Central Registry check within five business days of

receipt of the request. If the department notifies the provider that research into other records is required, these deadlines may be extended for up to ten additional business days.”

**Parents to be notified of childcare center provisional staff employment; statements from parents of children currently enrolled in childcare center**

SECTION 3. A. Subarticle 11, Article 13, Chapter 7, Title 20 of the 1976 Code is amended by adding:

“Section 20-7-2727. An owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 20-7-2700, must notify and obtain signed statements from the custodial parent or parents or guardian or guardians of each child currently enrolled in the childcare center, group childcare home, or family childcare home indicating that the parent or parents or guardian or guardians have received notice that the childcare center, group childcare home, or family childcare home may provisionally employ a person in order to comply with Section 20-7-680(G) and Section 20-7-2725(D) when an unexpected staff vacancy occurs. Provisional employment may only occur pursuant to the provisions of Section 20-7-2725(D).”

B. Within sixty days of this act’s effective date, an owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 20-7-2700 of the 1976 Code, must notify and obtain signed statements pursuant to the provisions of Section 20-7-2727 from the custodial parent or parents or guardian or guardians of each child enrolled on this act’s effective date in the childcare center, group childcare home, or family childcare home.

**Time effective**

SECTION 4. This act takes effect on June 30, 2008.

Ratified the 29<sup>th</sup> day of May, 2008.

Approved the 4<sup>th</sup> day of June, 2008.

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